

**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
OCTOBER 1, 1996**

Mayor Lomnicki called the work session to order at 5:00 p.m. in the second floor conference room in City Hall.

Present were Councilmembers Farley, Schreiber, Kappa, and Trotter.

Staff: City Manager Dan Bartlett; Assistant to the City Manager Charlene Richards; Community Development Director Maggie Collins; and Public Works Director Dave Wheaton.

Information Sharing

The group discussed possible motions that could be made during the regular session in support of or opposition to certain November 1996 Ballot Measures.

Councilmember Schreiber felt the City Council should respond only to those measures which directly impacted the City.

Mayor Lomnicki indicated he would like to discuss a resolution supporting Measure 32 (authorizes bonds for Portland area light rail, transportation projects elsewhere) and a motion expressing opposition to Measure 47 (amends Constitution: reduces and limits property taxes; limits local revenues, replacement fees, a.k.a. cut and cap).

Councilmember Kappa advocated for support of Measure 37 (broadens types of beverage containers requiring deposit and refund value) since it had to do with protection of the environment. **Councilmember Schreiber** felt this was an area of social concern and did not feel the City should either support or oppose the measure. **Councilmember Trotter** agreed there was an environmental impact, but he felt it was more appropriate to endorse the measure as individuals since there was no direct impact to the City government. **Councilmember Farley** agreed with Kappa that Measure 37 would impact the City of Milwaukie. Mayor Lomnicki said the League of Oregon Cities (LOC) Board supported the measure, but the vote was not unanimous. He agreed it was an important issue, but he did not see strong support from the Council to vote on it during the regular session.

Councilmember Kappa discussed Measure 44 (increases, adds cigarette and tobacco taxes and changes tax revenue distribution) and LOC's support. He felt the measure sent a strong message regarding health and concern with youth tobacco use. **Councilmember Schreiber** said the LOC supported the measure on the basis of the health industry and there will be no increase of city or county revenues. This is a sin tax, and she did not see any direct impact to the City. **Councilmember Farley** said he felt this measure would help curb tobacco use

by the 12-and-under age group, and he would like it discussed in the regular session. **Councilmember Trotter** said he would support the measure on the basis of related health issues.

Councilmember Schreiber said she would like to see the City Council oppose Measure 45 (amends Constitution: raises public employees' normal retirement age; reduces benefits) since it was clearly a City issue. **Councilmember Kappa** said he did not perceive this as a City issue and expressed concern about union contracts. **Mayor Lomnicki** said the measure was a city issue to the extent Milwaukie would employ people until age 65 in addition to restrictions on hiring practices. **Councilmember Trotter** added it would limit the City's ability to negotiate with employees, and insurance benefits are involved. The group agreed to take Measure 45 forward.

Councilmember Schreiber asked Council's opinion of Measure 41 (amends constitution: states how public employee earnings must be expressed) since government costs were involved. **Councilmember Trotter** did not think it was an area of Council responsibility.

Mayor Lomnicki summarized the measures for discussion. In regular session Council would discuss the following: a resolution supporting Measure 32; oppose Measures 45 and 47; and support Measure 44.

Councilmember Trotter felt a comment should be made to the effect that City Council was taking action on these measures because of the direct impact on City government.

Sewer Issues

Councilmember Trotter discussed the final options and the potential for a minority report. He proposed the North Clackamas Sewerage Facility Advisory Committee prepare an expanded report for the Board of Commissioners rather than preparing a minority report. The next Committee meeting is scheduled for October 23, 1996, and at this time it appears there are two minority positions. One position calls for decommissioning the Kellogg Treatment Plant, and the second recommends expansion.

Bartlett added Kent Squires of Oak Lodge Sanitary continued to express interest in a regional solution.

Councilmember Trotter said, from his standpoint, the nursery site was eliminated primarily because of the Willamette Greenway and land use issues.

South/North Light Rail

Bartlett presented information about the third alternative for light rail in the downtown area. He discussed the McLoughlin/Monroe and Tillamook Branch/Monroe alternatives which would cost \$108 million and \$98 million respectively. He indicated on a map the takings involved with the two possible alignments.

A third option recently under consideration for study was the Tillamook Branch/Hwy. 224 alignment. This option has an estimated cost of \$98 million. This alignment would loop through the downtown area and follow Hwy. 224 through the Murphy site to a station behind the Milwaukie MarketPlace. Takings would probably include West Coast Training, Safeway, Peak Memorial, Chan's Milwaukie Cleaners, Milwaukie Travel, and Odd Fellows. There are no residential takings with this plan. The Project Management Group (PMG) has scheduled consideration of this option on October 3. The MDDA indicated support for this alignment.

Councilmember Farley asked how many businesses would be displaced. **Bartlett** said eight commercial and two industrial businesses.

Councilmember Schreiber asked if busses would also be moved. **Bartlett** said busses would move to the new transit area, and 21st Street would continue to create a new block. Library parking would be impacted, so this issue is being reviewed. He discussed the impact to the back part of Scott Park and the mitigation requirement.

Councilmember Kappa asked if Monroe Street would be eliminated from the DEIS process. **Bartlett** said Monroe Street will continue to be in the DEIS; and if the Steering Committee agrees, the Tillamook/Hwy. 224 alignment will become the third option. He discussed potential parking issues and the cost of parking structures.

Councilmember Farley asked how much of the Milwaukie Jr. High School property could go to other uses. **Bartlett** responded that would depend on the success of the School District's bond measure. The District is evaluating the site as administrative or redevelopment space. He discussed the proposed feeder system and location of the new high school if the measure passes.

Councilmember Kappa said he would like to see an update on the status of this option after the PMG vote. **Bartlett** said he would have someone call with the results of the vote. He announced upcoming working group and MDDA meetings to review the third alignment.

Councilmember Kappa said he felt it was important to stress to the public that Monroe is still in the process, and the proposed third alternative shows the process is working.

Mayor Lomnicki said the planning community is doing an excellent job in continuing to work toward keeping costs down, and he particularly thanked Collins for her work. This seems to be an option that will both reach the downtown center and address other community issues. Estimated travel time and ridership are almost identical to the other alternatives. The cost is less, and there are no residential takings.

Bartlett said the DEIS process is designed to evaluate options and determine the most promising. There will be a 45-day comment period and a written mitigation plan.

Councilmember Trotter commented there would be no impact to either the park and ride or maintenance studies. Bartlett said everything to the north will continue to be studied and evaluated for possible redevelopment opportunities. He discussed the Regional Center Plan and inclusion of the Murphy property.

Urban Forestry Concept

Collins presented the staff report and introduced **Keith Liden**, Planning Consultant for McKeever Morris, who has worked on the project since April. She briefly reviewed the background information used by The Milwaukie Tree Committee which included language from other cities' ordinances. The Planning Commission established goals, objectives, and tasks for the program. The Vision Statement suggests trees are part of the visual beauty of the community.

She said it is assumed the program will be implemented for safety and the public welfare and to promote urban forestry and the City vision. Knowing this will be a long-term program, guidance is needed to determine how to proceed on the various aspects including education and regulation. Most of the cities in the region have a tree ordinance and some sort of a regulatory program.

Councilmember Kappa said he would like to see a forestry program with both educational and regulatory elements in place. His areas of concern were enhancing livability while promoting infill, preserving the natural environment, and protecting trees during light rail construction.

Councilmember Trotter thanked Committee and staff for addressing his previous comments. He was in favor of community livability and trees; however, he expressed concern over the costs of implementing the regulatory element.

One area of concern was the cost to the property owner for hiring an arborist to maintain trees in the public right-of-way. He also had a question about how significant or historic tree designations might relate to developed or underdeveloped land.

Councilmember Schreiber urged that whatever is put in place be user friendly. People within the urban growth boundary will not want to be annexed into a City that has more enforcement on his or her private property than can be understood. She agreed that the sheltering environment needed to be addressed but done succinctly.

Councilmember Farley felt it was important for builders to have legal guidelines when they come into the City of Milwaukie. He agreed trees are necessary for the protection of the environment.

Mayor Lomnicki agreed with Kappa's and Trotter's previous statements and with the need for a program. He felt the Milwaukie Urban Forestry group should be a board rather than a commission based on the general ordinance definition. He felt, instead of the annual \$1 per capita fee being established in the ordinance, reference should simply be made to the need for program support. Referring to page 59 of the staff report, he said he was concerned that tree preservation not stand in the way of responsible development. He was concerned about the property owner's comfort with marking a tree on his property for potential removal particularly if it was on the interior of the property. He was also concerned about the property owner being responsible for the entire cost for street trees if they are to be considered a public asset. The responsibilities listed on page 20 of the staff report were extensive, and he was concerned the Community Development Director would almost have to be an arborist. He also felt the language on page 20 of the staff report regarding public hearings was very convoluted, and the group should have board status with hearings before the Planning Commission with appeals to the City Council.

Mayor Lomnicki continued to discuss his concerns with permit requirements and tree maintenance companies applying for licenses and meeting license standards. He did not feel this could be imposed as part of the Milwaukie business license process. The Community Development Director should probably not be responsible for revoking a license due to irresponsible or unethical behavior.

Councilmember Kappa said, based on the model ordinance, he felt the structure indicated the group should be a board rather than a commission. He urged the rights of the property owner be respected while addressing protection

and livability issues in the community. Trees are important to the area, and the stock needs to be maintained. He recommended proceeding with the process, and asking the Planning Commission to respond to the Council's questions and comments.

Liden discussed trees in the public right-of-way. **Beery** said it is a common technique to remove the costs from the municipality's shoulders, but enforcement problems are not eliminated. If the City pays the costs, maintenance can be scheduled and risks could be less.

Collins added in a majority of the cases the responsibility rests with the property owners, and a strong education program is provided.

Councilmember Farley said there was already a code enforcement ordinance, and his basic concern was developing a program that would be acceptable to residents.

Councilmember Trotter expressed concern about a policy stating residents are responsible for making the City more livable. He felt the criteria on page 26 of the staff report were very subjective and could be very confusing to the property owner. He urged the designation criteria be more clear and objective.

Mayor Lomnicki indicated he felt the penalties were too severe and were unreasonable.

Councilmember Schreiber understood making restrictions on new development, but the concept for developed land needed to be more clear.

Councilmember Kappa said one group, such as developers, should not be targeted and take the brunt of the regulations without looking at the rest of the community. He felt the Planning Commission should review and respond to the City Council's concerns.

Councilmember Farley suggested each Councilor write down his/her concerns.

Councilmember Trotter discussed the section on tree removal standards on page 25 of the staff report and said he felt it was unclear. The section did not address removing trees which are in the way of building a structure. He agreed Council should prepare written comments for the Planning Commission and to share with each other. He felt an urban forestry program was needed and should be phased beginning with the educational process. While that phase was underway, the regulatory portion could be developed. He concurred the group should be a board rather than a commission.

Mayor Lomnicki agreed the educational element should be brought forward and urged moving slowly through development of the regulatory portion.

Collins summarized the discussion: have both an educational and a regulatory program; give the board responsibility for the educational arm of the program; develop concise, objective regulations and criteria; be sensitive to individual property owner's costs; research any legal questions; and determine budget impacts. She would look at street tree regulatory measures with Wheaton.

Councilmember Kappa said he would like the board to be appointed before the education process takes place.

Councilmember Trotter said work with undeveloped or underdeveloped property should be kept in the zoning arena that deals with environmental issues. He expressed concern with the penalty system, and pointed out the heavy hammer was probably not needed if the City wants voluntary compliance.

Mayor Lomnicki said a major issue is whether the individual property owner was or was not responsible for the street trees. This would be a philosophical and expensive policy issue. The value of street trees is an enhancement of the whole City. One issue is whether the City should or should not be responsible for the street trees or should it be the individual property owners.

Darrell Miller, 11048 SE Penzance, expressed concern as a property manager in the Washington/Penzance area. He felt some trees should be designated as undesirable species and recommended review of the City of Corvallis' regulations.

David Murray, a member of the Tree Task Force, spoke to the issue of needing regulations defining good tree maintenance standards.

Mayor Lomnicki adjourned the work session at 6:55 p.m.

Pat DuVal, Recorder/Secretary